



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSO/149782

PRELIMINARY RECITALS

Pursuant to a petition filed May 31, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access And Accountability in regard to Medical Assistance, a hearing was held on July 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Division of Health Care Access and Accountability (DHCAA) correctly determined that Petitioner was over-issued state Supplemental Security Income benefits for April, May, June, October and November 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: DHS by letter

Division of Health Care Access And Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. On May 23, 2013, The Department of Health Services sent Petitioner a notice indicating that she was overpaid State Supplemental Security Income (SSI) in the amount of \$418.90 for April 2012,

May 2012, June 2012, October 2012 and November 2012. The notice indicated that the overpayment occurred because Petitioner's countable income exceeded Title XVI program limits. The notice further indicated that the recoupment of benefits would begin June 17, 2013. (Exhibit 1)

3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 31, 2013. (Exhibit 1)
4. Petitioner received the following gross amounts in Federal SSI benefits:

April 2012 - \$698.00
 May 2012 - \$221.00
 June 2012 - \$221.00
 October 2012 - \$221.00
 November 2012 - \$0.00

(Exhibit 2)

DISCUSSION

The purpose of the state Supplemental Security Income is to provide a cash supplement to all Wisconsin residents who receive federal SSI. *SSI Administration Handbook §1.1.1*. Thus, in order to receive State SSI benefits, a person must first qualify for and receive Federal SSI benefits. *SSI Administration Handbook §2.1.1*. The only people exempt from this rule are those individuals who, since prior to 1995, have been receiving only State SSI benefits. *Id.*

"To qualify for federal SSI and thereby automatically become eligible for the state SSI supplement, an applicant must meet federal SSI financial and non-financial eligibility requirements." *SSI Handbook §2.1.1*

The SSI policy manual further describes the financial eligibility criteria for State SSI benefits:

2.1.3 Financial Eligibility

To meet the financial qualifications for SSI a person must achieve and maintain the following financial criteria:

1. Have assets that are not more than \$2,000 for an individual or \$3,000 for a couple. The following assets/properties are to be excluded such as:
 - Own home if the person resides there.
 - One vehicle, regardless of value, if it is used for transportation for the recipient or a member of the recipient's household.
 - Life insurance policies of no more than \$1,500.
 - Household goods and personal belongings.
 - Burial plot and a burial fund of not more than \$1,500 per person.
2. The recipient must have a monthly income that is not more than the applicable Federal maximum SSI payment level, plus \$20. (In 2011, maximum federal SSI payment levels, plus disregards, were \$674 for an individual and \$1,011 for a couple.)

The Department of Health Services Division of Health Care Access and Accountability (DHCAA) sent Petitioner a notice indicating that Petitioner was placed in non-payment status by the Social Security Administration due to her income, and because she was not eligible for Federal SSI benefits, she was not entitled to state SSI benefits.

At the hearing, Petitioner did not dispute the fact that she received State SSI benefits in the amount of \$83.73 per month during the time in question, but contested DHS's determination that she was not entitled to either the Federal or state benefits.

At the hearing, DHS provided no documentation from the SSA or other data base to prove that Petitioner's income was over program limits. The print out provided by DHS shows that Petitioner did, in fact, receive Federal Benefits for April, May, June and October 2012, but did not receive any benefits for November 2012.

In the absence of any evidence to the contrary, it is found that Petitioner correctly received state SSI benefits for April, May, June and October 2012, because she received Federal Benefits in those months. However, because Petitioner did not receive Federal SSI benefits in November 2012, she was not entitled to state SSI benefits in November 2012.

CONCLUSIONS OF LAW

The DHCAA incorrectly determined that Petitioner was over-issued state SSI benefits in April, May, June and October 2012.

The DHCAA correctly determined that Petitioner was over-issued state SSI benefits in November 2012.

THEREFORE, it is

ORDERED

It is hereby ordered that the Department of Health Services amend its May 23, 2013 overpayment notice, limiting the overpayment to November 2012. DHS shall take all administrative steps necessary to complete these tasks within 10 days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

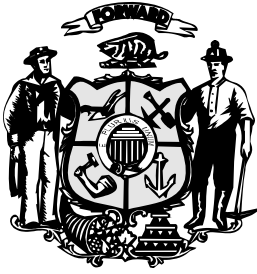
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 14th day of August, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 14, 2013.

Division of Health Care Access And Accountability
State SSI